IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 8700 of 2007(I)

PETITIONER:

SATHEESH CHATHENKERY AGED 33,
S/O.RADHAKRISHNA PILLAI,(VICE PRESIDENT PERINGARA GRAMA PANCHYATH)RAVEENDRA VILAS,CHATHENKERRY P.O, PERINGARA,THIRUVALLA TALUK,PATHANAMTHITA DISTRICT.

BY ADV. SRI.JOSEPH GEORGE

RESPONDENTS:
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1. THE BLOCK DEVELOPMENT OFFICER,
PULIKEEZH BLOCK,PATHANAMTHITTA DISTRICT.

2. THE STATE ELECTION COMMISSION,
REP.BY ITS PRINCIPAL SECRETARY,THIRUVANANTHAPURAM.

3. STATE OF KERALA REP.BY PRINCIPAL
SECRETARY (LOCAL ADMINISTRATION)TRIVANDRUM.

4. PERINGARA GRAMA PANCHAYATH
PATHANAMTHITTA DISTRICT REP.BY ITS SECRETARY,
PERINGARA P.O.

5. JOHN ABRAHAM,MEMBER PERINGARA GRAMA PANCHAYATH,MUNDAKATHIL PARAMBU,CHATHANKERRY P.O, PATHANAMTHITTA DISTRICT.

6. PRAMOD ELAMON,MEMBER PERINGARA GRAMA PANCHAYATH,MUNDAKATHIL PARAMBU,CHATHANKERRY P.O, PATHANAMTHITTA DISTRICT.

BY G.P.SMT.T.B.RAMANI
BY SC SRI.MURALI PURUSHOTHAMAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 8700 of 2007

Dated this 15th day of March, 2007

JUDGMENT

The petitioner, who is Vice President of the Peringara Grama Panchayat in Pathanamthitta District, impugns Ext.P1 notice issued by the first respondent who is the authorized Officer of the State Election Commission, informing that the Panchayat proposes to consider the no confidence motion which is proposed against the petitioner by the 6th respondent and supported by the 5th respondent. The petitioner points out that against the President of the Panchayat also there was a no confidence motion which was proposed by the 5h respondent and supported by the 6th respondent. Under Ext.P1 it is stated that the meeting for considering the no confidence motion which is proposed against Smt.Arundhathi Ashok, the President of the Panchayat will be taken up at 11.a.m. On 19.3.2007. But the notice in so far as it relates to the no confidence motion against the petitioner who is Vice President it is stated that the same will be taken up only after the proceedings are completed on the no

confidence motion regarding the President. The petitioner contends that Ext.P1 is bad. The petitioner has filed this writ petition for quashing Ext.P1 notice in so far as it relates to the consideration of the no confidence motion against him the vice president.

2. Taking notice on behalf of the Election Commission, Mr.Murali Purushothaman, the learned Standing Counsel has filed a detailed statement. Paragraphs 4 and 5 and 6 of the state are relevant and I quote them as follows:

> "4. Section 157 of the Kerala Panchayat Raj Act deals with the motion of no confidence against the President and Vice President of Panchayats. The procedure for considering such a motion has also been provided under the said Section and there are no separate Rules prescribed thereupon. Going by the scope of the provision there cannot be a composite meeting for considering motion of no-confidence against the President and Vice- President. Each motion has to be considered by the members in separate meeting. For the meeting to consider a motion of no confidence against the president there shall be a notice as contemplated under sub section 3 of Section 157 specifying the date, time and venue of the meeting and the notice shall be sent by registered post to the members. For the meeting to consider a motion no confidence against the vice president also there shall be a notice as contemplated under sub section 3 of section 157 specifying the date, time and venue of the meting and the notice shall be sent by registered post to the members. Ext.P1 is not definite

as to the time of the meeting to consider the motion of no confidence against the vice president and as such is a contingent notice and hence not a sufficient notice.

5. When the Statute prescribes a specific method to be followed, it is obligatory on the authorized officer to confirm to the norms that are so laid down and it should not have been done in any other manner. Therefore, the State Election commission is of the view that Ext.P1 is a contingent notice in so far as the meeting to consider the motion of no confidence against the vice president is concerned and is against the provisions of the Act. However, Ext.P1 notice is valid so far as it relates to the meeting to consider the motion of no confidence against the president.

6. In view of the above the commission is instructing he authorized officer to issue fresh notice to the members of the Panchayat for convening a meeting to consider the motion of no confidence against the Vice President based on the notice of intention to move the motion already received by the authorised officer on 7.3.2007 as if the authorised officer has received the notice of intention to move the motion on the date on which he receives instructions in this regard from the Commission. This is because due to the inept handling of the situation by the authorised officer the right of respondents 5 and 6 and other signatories to the notice of intention to move the motion cannot be defeated. "

3. Sri.Joseph George, the learned counsel for the petitioner made submissions on the basis of the grounds raised in the writ petition. Sri.Muralipurushothaman submits that instructions are

being issued to the first respondent immediately, directing him to issue fresh notice to the members of the Panchayat for convening a meeting for considering the motion of no confidence against the vice president based on the notice of intention to move the motion already received by the authorized officer on 7.3.2007, as if the authorized officer has received the notice of intimation to move the motion only on the date on which he receives instructions from the election commission in this regard.

Considering the submissions addressed before me, I am of the view that Ext.P1 should be quashed to the extent it pertains to the consideration of no confidence motion against the petitioner who is the vice president. It is so quashed. The first respondent is directed to abide all the instructions which is being issued to him by the Election Commission in the matter of convening of meeting for considering the no confidence motion against the petitioner.

The writ petition is disposed of as above.

PIUS C.KURIAKOSE, Judge

Judge

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